

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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IVAN LEE MATTHEWS, II,

Case No. 3:19-cv-00216-MMD-CSD<sup>1</sup>

Plaintiff,

ORDER

v.

ISIDRO BACA,

Defendant.

*Pro se* Plaintiff Ivan Lee Matthews brings this action against Defendant Isidro Baca<sup>2</sup> under 42 U.S.C. § 1983.<sup>3</sup> (ECF No. 8.) Before the Court is the Report and Recommendation (“R&R”) of United States Magistrate Judge Craig S. Denney (ECF No. 46), recommending the Court dismiss the case for failure to prosecute and deny Defendant’s pending motion for summary judgment (ECF No. 39 (“Motion”)) as moot. Matthews had until June 1, 2022, to file an objection. To date, no objection to the R&R has been filed. For this reason, and as explained below, the Court will adopt the R&R, and will dismiss the case without prejudice and deny the Motion as moot.

The Court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where a party fails to object to a magistrate judge’s recommendation, the Court is not required to

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<sup>1</sup>This case was reassigned to United States Magistrate Judge Craig S. Denney following United States Magistrate Judge William G. Cobb's retirement. (ECF No. 43.)

<sup>2</sup>Following screening and dismissal of Defendant Lisa Walsh for failure to file proof of service, Defendant Isidro Baca is the only remaining Defendant in this case. (ECF Nos. 6, 9, 41.)

<sup>3</sup>Although Matthews was previously incarcerated in the custody of the Nevada Department of Corrections, he has since been released and has failed to update his contact information. (ECF No. 46 at 1-2.) See LR IA 3-1.

1 conduct “any review at all . . . of any issue that is not the subject of an objection.” *Thomas*  
2 *v. Arn*, 474 U.S. 140, 149 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114,  
3 1116 (9th Cir. 2003) (“De novo review of the magistrate judges’ findings and  
4 recommendations is required if, but *only* if, one or both parties file objections to the  
5 findings and recommendations.”) (emphasis in original); Fed. R. Civ. P. 72, Advisory  
6 Committee Notes (1983) (providing that the Court “need only satisfy itself that there is no  
7 clear error on the face of the record in order to accept the recommendation.”).

8 Because there is no objection, the Court need not conduct de novo review, and is  
9 satisfied that Judge Denney did not clearly err. Judge Denney correctly found that  
10 Matthews failed to prosecute his case. (ECF No. 46 at 2-3.) Matthews did not file a  
11 response to Defendant’s pending Motion. (ECF No. 39.) On March 10, 2022, Judge  
12 Denney ordered Matthews to file a response and granted him an additional 20 days. (ECF  
13 No. 44.) On May 3, 2022, Judge Denney issued an order to show cause and gave  
14 Matthews 14 days to file and serve a notice of intent to prosecute, and warned Matthews  
15 that his failure to comply will result in a recommendation that the case be dismissed for  
16 failure to prosecute under Fed. R. Civ. P. 41(b). (ECF No. 45.) Despite the warning and  
17 multiple opportunities to file a response, Matthews has failed to take any further action in  
18 the case. The Court accordingly agrees with Judge Denney and will dismiss this case  
19 without prejudice for failure to prosecute. *See* Fed. R. Civ. P. 41(b); LR 41-1; *Link v.*  
20 *Wabash R. Co.*, 370 U.S. 626, 629 (1962) (“The authority of a federal trial court to dismiss  
21 a plaintiff’s action with prejudice because of his failure to prosecute cannot seriously be  
22 doubted”); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (affirming dismissal  
23 for lack of prosecution and failure to comply with local rules).

24 It is therefore ordered that Judge Denney’s Report and Recommendation (ECF  
25 No. 46) is accepted and adopted in full.

26 It is further ordered that Defendant’s motion for summary judgment (ECF No. 39)  
27 is denied as moot.

28 It is further ordered that this case is dismissed, in its entirety, without prejudice.

1 The Clerk of Court is directed to enter judgment accordingly and close this case.

2 DATED THIS 6<sup>th</sup> Day of June 2022.

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6 CHIEF UNITED STATES DISTRICT JUDGE  
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